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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,093	11/03/2003	Peter S. Aronstam	014-30752-USCP	2822
24923	7590	07/01/2005	EXAMINER	
PAUL S MADAN MADAN, MOSSMAN & SRIRAM, PC 2603 AUGUSTA, SUITE 700 HOUSTON, TX 77057-1130			STONE, JENNIFER A	
			ART UNIT	PAPER NUMBER
			2636	

DATE MAILED: 07/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/700,093

Applicant(s)

ARONSTAM ET AL.

Examiner

Jennifer A. Stone

Art Unit

2636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-59 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 40-47 and 49-58 is/are allowed.
- 6) ☒ Claim(s) 1-39, 48 is/are rejected.
- 7) ☒ Claim(s) 59 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on March 29, 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/4/05 & 2/18/04</u> | 6) <input type="checkbox"/> Other: ____ |

Claim Objections

1. Claim 59 is objected to because of the following informalities: Claim 59 cannot depend from a non-existing claim (Claim 60). Appropriate correction is required.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-39, and 48 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2-14, 21, 23, 24-28, respectively of U.S. Patent No. 6,891,477. Although the conflicting claims are not identical, they are not patentably distinct from each other because there is little distinction between a "pipeline having a fluid flow" and a "flow conduit having a through passage and a fluid flow". In addition, it would have been obvious to one of ordinary skill in the art, at the time the invention was made that an interrogation device adapted to move proximate a measurement station could do so by several means, including a flow propelled interrogation device.

Allowable Subject Matter

3. Claims 1-59 are allowed based on correction to the claim objection (see above) and a timely filed terminal disclaimer.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Menger (US 2004/0257241) discloses monitoring a pipeline where an interrogation device measures a parameter of interest and sends data to a from a messenger module transmitter/receiver attached to a tool.

Austin et al. (US 6,498,568) discloses a pipeline communication system where a pipeline forms a communication network.

Layton (US 6,798,338) discloses an RF communication system within a borehole where sensors within the borehole measure parameters and transmit sensor data to surface personnel.

Schultz et al. (US 6,538,576) discloses a sensor-monitoring device embedded within a well, where an interrogation device transmits an interrogation signal to the sensor and receives data from the sensor.

Doany (US 6,377,203) discloses a system for tagging, locating, and reading sections of a pipeline where RFID tags are inserted within a pipeline and data from the tags is transmitted to a surface receiver.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer A Stone whose telephone number is (571) 272.2976. The examiner can normally be reached on M-F from 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Hofsass, can be reached at (571) 272.2981. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jennifer Stone
June 17, 2005



JEFFERY HOFSSASS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600